

**INTERIM TRAIL USE AND RAIL BANKING
PURCHASE SALE AGREEMENT**

THIS AGREEMENT, hereinafter called the "Agreement", made and entered into effective the ____ day of _____, 2009, by and between CSX TRANSPORTATION, INC., a Virginia corporation, whose address is c/o CSX Real Property, Inc. J915, 301 West Bay Street, Suite 800, Jacksonville, Florida 32202-5184, hereinafter called the "Seller", and SHELBY COUNTY GOVERNMENT, whose address is 160 N. Main Street, Suite 850, Memphis, TN 38103, hereinafter called the "Buyer", provides:

RECITALS

A. Seller owns or controls Property ("Right-of-Way") located in Memphis, Shelby County, Tennessee which includes any and all rights-of-way, easements, personal property, and real property as shall be acquired from CSX pursuant to this Agreement. and further described herein.

B. Seller has agreed to sell to Buyer, and Buyer has agreed to acquire from Seller, the rights necessary to construct, maintain, enhance, operate, and use a recreational trail along a portion of said Right-of-Way upon the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby expressly acknowledged, Seller and Buyer agree as follows:

1. PURCHASE AND SALE:

Upon the terms and conditions set forth herein, Buyer hereby agrees to purchase from Seller and Seller agrees to sell to Buyer, all of the rights which Seller is authorized to sell and Buyer is authorized to buy, under the provisions of 16 U.S.C. 1247(d), for interim trail use and rail banking, in and to the Right-of-Way of Seller's Cordova Branch rail line between MP ONI 224 (VS 11812+37) to MP ONI 216.92 (VS 11439+97) located between central Memphis and Shelby Farms, in Memphis, Shelby County, Tennessee, as set forth in the Quit Claim Deed, a copy of which is attached hereto as Exhibit "A" and made a part hereof, (hereinafter called the "Right-of-Way"). Buyer acknowledges and agrees that the Right-of-Way shall be used for the sole purpose of the construction, maintenance, enhancement, operation, and use of a recreational trail (hereinafter referred to as "Trail").

2. PRICE:

The purchase price for the Right-of-Way is FOUR MILLION FIVE HUNDRED THOUSAND AND NO 00/100 U.S. DOLLARS (\$4,500,000.00), (hereinafter the "Purchase Price").

3. OFFER, ACCEPTANCE, CONTRACT:

3.1 Buyer's offer to purchase the Right-of-Way (hereinafter the "Offer") shall be evidenced by Buyer's execution and delivery of this Agreement to Seller. Seller's acceptance of the Offer is to be evidenced by its execution of this Agreement and its delivery thereof to the Buyer. Failure of Seller to accept the Buyer's Offer and execute and deliver this Agreement shall render the Offer null and void. Buyer retains the right to withdraw the Offer anytime prior to Seller's execution and delivery of this Agreement to Buyer.

3.2 This Agreement, when accepted by Seller, shall constitute a contract and the entire agreement between the parties hereto, and they shall not be bound by any terms or conditions, oral or written, or by any statements or representations, oral or written, not contained herein, including Exhibits referenced to herein and attached hereto.

3.3 Neither the Buyer's Offer nor, upon its execution by all parties, this Agreement may be changed, altered or modified except by an instrument in writing signed by Buyer and Seller.

3.4 The Buyer's Offer and this Agreement shall be executed in duplicate, each of which may be treated as an original.

4. CONTINGENCIES:

4.1 This Agreement is contingent upon the following events having occurred on or before [insert date]:

- (1) Seller having delivered to Buyer evidence that Seller has obtained authority from the Surface Transportation Board (STB) to cease railroad operations over the Right-of-Way and that Seller has removed its track and other track materials described in Section 5.3(B) hereof.
- (2) The delivery to Seller of an Environmental Assessment of the Right-of-Way, in conformance with Exhibit B, attached hereto and made a part hereof.
- (3) Buyer having received FOUR MILLION FIVE HUNDRED THOUSAND DOLLARS (\$4,500,000.00) funding from Shelby Farms Park Conservancy; Buyer having identified and selected an entity satisfactory to Buyer to operate and maintain Trail; Buyer having received all necessary approvals from local, state and federal officials in regard to environmental matters, including approval from Tennessee Department of Environment and Conservation that the proposed trail design, when implemented, will mitigate any potential environmental hazards; and Buyer having received all necessary approvals from the Board of County Commissioners of Shelby County, Tennessee.

4.2 By STB Decision and Notice of Interim Trail Use or Abandonment served October 26, 2007, in STB Docket No. AB 55 (Sub.-No. 684X), as modified at the parties' request on April 30, 2008, on December 2, 2008, and on February 13, 2009, Seller has been authorized to negotiate an interim trail use/rail banking agreement ("NITU") with Buyer for the Right-of-Way pursuant to the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act), which authority expires on March 31, 2009 ("Contingency Date"). Buyer and Seller may request an extension of the Contingency Date by the STB to allow completion of the sale.

The contingencies listed in Section 4.1 above must be satisfied or complied with on or before the Contingency Date, and any extension requested by the parties and granted by the STB. If the contingencies listed in Section 4.1 are not satisfied or complied with by the Contingency Date, plus any extension requested by the parties and granted by the STB, Buyer may, at Buyer's sole option, elect to terminate this Agreement by written notice to Seller given on or before the Contingency Date, plus any such extension, in which case Buyer and Seller shall each be relieved of all liability hereunder and all funds transferred to Seller shall be returned to Buyer. If terminated, the Buyer shall furnish Seller with copies of all engineering reports, studies, maps, site characterizations and/or zoning related materials developed by Buyer during the term of this Agreement relating to the potential use or the physical condition of the Premises.

4.3 REVIEW PERIOD: In addition to and irrespective of any other provisions of this Agreement, Buyer shall have the right for a period of thirty (30) days after the complete execution of this Agreement by Buyer and Seller ("Review Period") to make such inspections of the Right-of-Way as Buyer deems reasonable and necessary, including by way of example and not by way of limitation (i) examination of soil and environmental conditions; (ii) availability of all utilities including water, sewer, gas and electric facilities subject to the limitations set forth in Section 3 of the Memorandum of Understanding executed between Seller and Buyer dated August 29, 2008; (iii) title to the Right-of-Way and any restrictions, encumbrances or other title matters; (iv) to investigate and determine the feasibility and cost of development, construction, and operation of the Buyer's proposed development on the Right-of-Way including, without limitation, governmental approvals, Seller approvals (as set forth below), site plan approvals, building permit matters, impact fees, zoning, utility tap/connection fees, taxes, assessments, and other fees and assessments applicable to the Right-of-Way; and (v) otherwise inspect the general condition of the Right-of-Way and its suitability for Buyer's proposed use as a recreational trail.

If for any reason Buyer determines, in its sole discretion, that the Right-of-Way is not satisfactory, Buyer shall give notice of such fact to Seller on or before the last day of the Review Period and this Agreement shall terminate and Buyer and Seller shall each be relieved of all liability hereunder and all funds transferred to Seller shall be returned to Buyer. If such notice is not received by Seller on or before the last day of the Review Period, Buyer shall have no further right to terminate this Agreement other than for failure of contingencies as set forth in Section 4.1 above. Buyer agrees to repair any damage to the Right-of-Way caused by its entry thereon pursuant to this paragraph. Buyer shall conduct any and all of its investigative analysis of the Right-of-Way during the Review Period.

5. DEED:

5.1 Prior to the execution of this Agreement by all parties, Seller will prepare and submit to Buyer, for Buyer's comments, a form of quitclaim deed in conformance with the terms of this Agreement to convey the Premises to Buyer. Buyer shall have a period of ten (10) business days after receipt of said deed to examine same and notify Seller of any comments. If comments regarding changes are made, Seller shall have a period of ten (10) business days to correct the deed and return back to Buyer for approval. Buyer will have another ten (10) business days to review the corrected deed. If no comments are received within the ten (10) day period, Buyer shall be deemed to have approved the deed in the form submitted. Seller shall have no obligation to modify the deed to conform to Buyer's comments if the deed otherwise conforms to the terms of this Agreement. The Quitclaim Deed, shall conform in form and substance to Exhibit A, conveying to Buyer the Right-of-Way, subject to the following on said Right-of-Way: all existing roads, fiber optic facilities, public utilities; all matters of record; any applicable zoning ordinances and subdivision regulations and laws; taxes and assessments, both general and special, which become due and payable after the date of conveyance and which Buyer assumes and agrees to pay; all matters that would be revealed by a survey meeting applicable State minimum technical requirements or by an inspection of the Right-of-Way; the items or matters identified on Exhibit C of this Agreement which will either be canceled at closing or assigned to Buyer; and all existing occupancies, encroachments, ways and servitudes, howsoever created and whether recorded or not; and subject to the additional provisions set forth in paragraphs 5.2 through 5.4. The provisions of this Section shall survive Closing.

5.2 The deed shall contain notices and restrictive covenants, reading substantially as follows, to run with title to the Right-of-Way, and to be binding upon Buyer, Buyer's heirs, legal representatives and assigns, or corporate successors and assigns, or anyone claiming title to or holding the Right-of-Way through Buyer, including the following:

(A) Buyer acknowledges that the Right-of-Way has been historically used for railroad industrial operations and that the Right-of-Way is being conveyed for use only as a recreational trail. Buyer, by acceptance of this deed, hereby covenants that it, its successors, heirs, legal representatives or assigns shall not use the Right-of-Way for any purpose other than a recreational trail and that the Right-of-Way will not be used for (a) any residential purpose of any kind or nature (residential use shall be defined broadly to include, without limitation, any use of the Right-of-Way by individuals or families for purposes of personal living, dwelling, or overnight accommodations, whether such uses are in single family residences, apartments, duplexes, or other multiple residential dwellings, trailers, trailer parks, camping sites, motels, hotels, or any other dwelling use of any kind), or (b) any public or private school, day care, or any organized long-term or short term child care of any kind. By acceptance of this deed, Buyer further covenants that it, its successors, heirs, legal representatives or assignees shall not use the groundwater underneath the Right-of-Way for human consumption, irrigation, or other purposes.

(B) After closing, Buyer, for itself, its successors and assigns, shall be responsible for all maintenance of the Right-of-Way including but not limited to mowing, weed and vegetation control, and eradication of animals that pose a threat to health and public safety and/or carry vector-borne illnesses.

5.3 Seller shall except and reserve unto itself as Grantor, its successors and assigns, the following rights and interests:

(A) EXCEPTING unto Seller the ownership in and to all railroad tracks and other track material, including switches, signals, rails, and all cross ties, hereinafter "the Track", within and on the Right-of-Way. Seller

shall remove the tracks and other track material by date of Closing, at its sole cost and expense, and shall leave the gravel ballast in a graded condition.

(B) RESERVING unto Seller, its successors and assigns, an indefinite number of exclusive perpetual utility easements, hereinafter "the Reserved Utility Easements", under the entire width and length of the Right-of-Way for existing and future construction, maintenance, operation, use, replacement, relocation, renewal and removal of utilities, which shall include but not be limited to water lines, sewer lines, natural gas lines, electric, telephone, fiber optic communications systems and petroleum products pipelines consisting of cables, lines, pipes or facilities beneath the surface of the Right-of-Way and all ancillary equipment or facilities (both underground and surface), and the right to attach same to existing bridges on the Right-of-Way, and such surface rights as may be necessary to accomplish the same, provided there is not interference with the Trail and that any damage to the Trail is promptly repaired at the expense of the Seller; TOGETHER with unrestricted access over the Right-of-Way to reach the Reserved Utility Easements and with the further right to assign the Reserved Utility Easements, in whole or in part, and to lease, license or to permit third parties to use the Reserved Utility Easements. The right to use the Right-of-Way for underground utilities not related to the development and use of the trail shall remain with and be exclusive unto Seller.

(C) RESERVING unto Seller, its successors and assigns, the exclusive rights necessary to construct, operate and maintain Commuter Rail operations on the Right-of-Way, including any surface, subsurface and aerial rights necessary in connection with the commuter rail operations; provided, Seller's reserved rights are not inconsistent with Section 18.2 of this Agreement and provided that Buyer shall be compensated pursuant to Section 18.2 of this Agreement. If the Seller exercises its Commuter Rail rights hereunder, Seller shall ensure that all reasonable efforts are undertaken to design a Commuter Right-of-Way that can coexist on the Right-of-Way with the trail.

(D) PROVIDED HOWEVER that if the exercise of any of Seller's rights in subparts (A) through (C) to construct, maintain, operate, use, replace, relocate, renew or remove any existing or future underground Reserved Utility Easements or to construct, operate and maintain Commuter Rail operations will impact or alter the Trail in any way and/or prevent the full use and enjoyment of the Trail, Seller shall notify Buyer in advance and obtain Buyer's approval, which shall not be unreasonably withheld. Any cost associated with the exercise of Seller's rights under this part, including but not limited to costs to alter, repair or relocate the trail, shall be borne solely by the Seller. The Seller shall indemnify, defend, save and hold harmless the Buyer, and its elected officials, officers, employees, agents, assigns, and instrumentalities from and against any and all claims, liability, losses or damage caused by or attributed or in any way related to any of the reserved easements, rights and interests in this Section.

6. TITLE SEARCH, INSURANCE:

6.1 Buyer has the option of arranging and paying for such examination of title or title insurance on the Right-of-Way as Buyer may desire, at Buyer's sole cost.

6.2 Irrespective of whether Buyer obtains a title examination or insurance, Buyer shall, if Buyer closes on the purchase of the Right-of-Way, accept the Right-of-Way.

6.3 As information, Seller's source of title to the Right-of-Way is believed to be as shown on attached Exhibit C.

This information is provided solely to assist Buyer in reviewing title to the Premises and is not intended to and shall not be relied upon by Buyer.

7. CLOSING:

Closing hereunder shall be held on or before ----- at such time and place as Seller and Buyer shall mutually agree. If Buyer and Seller do not agree upon a time and place for Closing, Seller shall designate the time and place for Closing, which shall take place in Memphis. The time and date for Closing may be

extended only by Seller in writing, time expressly being of the essence in this Agreement.

8. POSSESSION:

8.1 Buyer shall obtain possession of the Right-of-Way at Closing, subject to the limitations, terms and conditions of the Deed, and such other leases, licenses, easements, occupancies or other limitations which are identified on Exhibit D, or which are discovered by Seller and approved by Buyer during the term of this Agreement (which may not necessarily be stated in the deed), unless canceled by Seller or otherwise terminated (whether by notice, expiration, nonrenewal or any other reason) prior to Closing. Seller shall retain only those leases, licenses, or occupancies which are identified on Exhibit E, together with monies due and payable thereunder.

8.2 During the term of this Agreement, Seller will research its archives for, and shall promptly advise Buyer if Seller discovers, any additional leases, licenses, easements, occupancies and limitations affecting the Right-of-Way. As to items discovered as a consequence of such research, Seller may elect, in its sole discretion, to either cancel or otherwise terminate such items or, pursuant to Section 10.1, to assign, if approved by Buyer, or if such item is applicable to an area greater than the Right-of-Way, the Buyer shall be included as party at Closing.

8.3 At Closing, Seller shall either terminate, or assign to Buyer, and Buyer shall assume, Seller's right, title and interest in all items identified and noted accordingly on Exhibit D, or which are subsequently discovered by Seller and approved by Buyer, unless canceled or otherwise terminated, at or prior to Closing. However, if such item is applicable to an area greater than the Right-of-Way and approved by Buyer, the Buyer shall be included as party to a partial assignment of the item(s), which may be executed after Closing.

8.4 If, prior to Closing, all or any portion of the Right-of-Way is taken by eminent domain (or is the subject of a pending taking which has not yet been consummated), Seller shall notify Buyer of such fact promptly after obtaining knowledge thereof and either Buyer or Seller shall have the right to terminate this Agreement by giving notice to the other not later than ten (10) days after the giving of Seller's notice. If neither Seller nor Buyer elects to terminate this Agreement as aforesaid, there shall be no abatement of the Purchase Price and Seller shall assign to Buyer (without recourse) at the Closing the rights of Seller to the awards, if any, for the taking, and Buyer shall be entitled to receive and keep all awards for the taking of the Premises or such portion thereof.

9. ANNUAL TAXES; RENTS; LIENS; CHARGES:

9.1 Seller shall remain responsible for any tax liability arising out of its ownership of the Right-of-Way after the Closing.

9.2 Any certified governmental assessments or liens for improvements on the Right-of-Way which are due and payable at the time of Closing shall be paid in full by Seller. Seller agrees to disclose any pending liens and/or assessments for improvements not yet due and payable prior to Closing. Any pending liens or assessments for improvements not yet due and payable at Closing shall be thereafter paid in full by Buyer.

9.3 Any rents and license fees (individually in excess of \$500.00 prorated amount on annual rental) accruing to the Right-of-Way shall be prorated at Closing, with rents and fees prior to the date of Closing retained by Seller.

10. TAXES ON TRANSFER; CLOSING COSTS:

10.1 Buyer shall pay all transfer taxes, however styled or designated; all documentary stamps, recording costs or fees or any similar expense in connection with this Agreement, the conveyance of the Right-of-Way or necessary to record the deed.

10.2 If any state or local governmental authority requires, presently or in the future, the payment of any sales, use or similar tax upon the sale, acquisition, use or disposition of any portion of the Right-of-Way, (whether under statute, regulation or rule), Buyer assumes all responsibility for and shall pay the same, directly to said authority, and shall hold Seller harmless from such tax(es) and any interest or penalty thereon. Seller shall

cooperate (at no expense to Seller) with Buyer in the prosecution of any claim for refund, rebate or abatement of said tax(es).

10.3 Seller shall pay the cost of recording any release of Seller's mortgage(s) or lien(s). In the event Buyer finances any portion of the Purchase Price (whether through third parties or from Seller), Buyer shall pay all costs thereof, including recordation, intangible taxes, etc.

11. BUYER'S RIGHT OF ENTRY, ENVIRONMENTAL AND OTHER INSPECTIONS:

11.1 Buyer acknowledges that the ultimate use of the Right-of-Way shall be for public recreation and open space conservation. Buyer further acknowledges that: a) the historical use of the Right-of-Way was for railroad and industrial operations and that the Right-of-Way is being conveyed as industrial use Right-of-Way; b) non-industrial use of the Right-of-Way may require the implementation of remedial or corrective actions to ensure the protection of human health or the environment; and c) Buyer plans to develop the Right-of-Way for use as a recreational trail (the "Intended Use") and d) any clean up associated with the development is limited to the purposes of recreational trail use. Buyer further acknowledges that Buyer will obtain an environmental assessment on the Right-of-Way at its expense to ensure that its Intended Use poses no threat to human health or the environment. Buyer shall perform any and all assessment, remediation, and/or monitoring on the Premises necessary for Buyer's Intended Use of the Right-of-Way. Buyer shall coordinate its environmental investigation of the Premises with Seller's environmental representative, Raghu Chatrathi @ 904-633-4858.

11.2 During the term of this Agreement, upon compliance with the terms of this Section 11, Buyer and/or its agents shall be permitted to have access to the Right-of-Way, subject to the rights of any tenant, licensee, utility or other third party occupying any portion of the Right-of-Way, in order to make surveys, make measurements, conduct environmental or engineering tests (including drilling and coring for preconstruction soil analysis), and to make such physical inspections and analyses thereof as Buyer shall deem necessary; PROVIDED, however, that Buyer hereby assumes all risks of such right of entry. Buyer agrees to do no act which would encumber title to or damage the Right-of-Way in exercising this right-of-entry. Any drilling and coring holes shall be filled upon completion of testing and any alterations to the Right-of-Way shall be repaired at Seller's sole cost. All investigation-derived waste, including without limitation drilling waste, ground water and cuttings, shall be promptly handled, characterized and disposed of properly and in accordance with all local, State and Federal requirements, all at Buyer's sole cost.

11.3 Buyer acknowledges that Seller makes no guarantee, representation or warranty regarding the physical or environmental condition of the Right-of-Way, and Seller expressly disclaims any and all obligations and liabilities to Buyer regarding any defects which may exist with respect to the condition of the Right-of-Way.

11.4 Buyer shall be responsible for the remediation of the physical and environmental condition of the Right-of-Way to a standard suitable for trail use as required by the environmental site assessment required by Section 4 of this Agreement.

11.5 Subject to all applicable laws, Buyer shall indemnify, defend and hold harmless Seller, its present and future officers, directors, employees and successors, from and against any and all liabilities, penalties, fines, forfeitures, demands, claims, causes of action, suits, and costs and expenses incidental thereto (including cost of defense, settlement and reasonable attorneys' fees) which any or all of them may hereafter suffer, incur, be responsible for or pay out as a result of injury to any person or damage to any Right-of-Way (public or private), contamination of or adverse effects on the environment, or any violation or alleged violation of the deed restrictions or restrictive covenants provided for in statutes, ordinances, orders, rules or regulations of any governmental entity, department or agency, caused by or arising out of the environmental condition of the Right-of-Way or which arises out of any failure by the Buyer to observe and adhere to all terms, conditions, and covenants of this Agreement, including any requirement to undertake the remediation or cure of any physical or environmental condition, regardless of the cause or date of origin of such condition or by whom any such remediation or cure may be conducted or funded.

Seller acknowledges that Shelby County Government, being a political subdivision of the State of Tennessee, is governed by the provisions of the Tennessee Governmental Tort Liability Act, Tennessee Code Annotated, sections 29-20-101 *et seq.*, for causes sounding in tort.

11.6 Buyer shall also keep Seller fully apprised of the progress of, and procedures followed with respect to, all such environmental work; and fully cooperate with all reasonable requests of Seller in undertaking and carrying out such work. Buyer shall prepare split samples (which may then be separately tested at Seller's sole option and cost) for delivery to Seller within five (5) days after receipt, copies of all results, assessments, reports and studies, whether of an environmental nature or otherwise, resulting from any tests or inspections conducted by Buyer pursuant to this Section 13 or otherwise in accordance with this Agreement. Seller acknowledges that Seller has been given the opportunity to test samples and that Seller has been given a copy of the final report. At or before Closing, Buyer shall provide Seller a reliance letter from Buyer's consultant, in form and substance reasonably acceptable to Seller, granting Seller the right to rely on the environmental data and reports generated as part of buyer's environmental due diligence, including without limitation, any Phase I and Phase II Environmental Site Assessment Reports. The reliance letter shall not impose any additional limitations or restrictions on Seller's reliance on said data and reports except as may be specified within the report documents themselves.

11.7 If environmental contamination of the Right-of-Way is revealed by the studies and tests conducted by Buyer pursuant to this Section 11.3, in an amount and/or concentration beyond the minimum acceptable levels established by current applicable governmental authorities, or, if Buyer is unwilling to accept the environmental condition of the Right-of-Way as a result of such tests or assessments, Seller's and Buyer's sole and exclusive remedy shall be to terminate this Agreement. Under no circumstances shall Seller be required to correct, remedy or cure any condition or environmental contamination of the Right-of-Way, which Buyer's tests and studies may reveal, as a condition to Closing or other performance hereunder.

11.8 Based on the results of the environmental site assessment as required by Section 4 of this Agreement, Buyer agrees to remediate both the environmental and physical condition of the Right-of-Way to a standard suitable for trail use.

11.9 The provisions of this Article 11 shall survive Closing or termination of this Agreement.

12. SUBDIVISION APPROVAL; ZONING:

12.1 Any subdivision approval needed to complete the transaction herein contemplated shall be obtained by Buyer at Buyer's sole risk, cost, and expense. Seller shall cooperate with Buyer in obtaining said approval, to the extent necessary or required, but Buyer shall reimburse Seller for any and all charges, costs and expenses (including portions of salaries of employees of Seller assigned to such project) which Seller may incur in such cooperation.

12.2 Seller makes no guarantee or warranty that any subdivision approval will be granted and assumes no obligation or liability for any costs or expenses if same is not approved.

12.3 Costs and expenses shall include all fees, costs and expenses, including reasonable attorneys' fees, of obtaining subdivision plats, or filing same with the applicable governmental body(ies), or recordation thereof, including attorneys' fees, and all other related and/or associated items.

12.4 Seller makes no guarantee, warranty or representation as to the permissibility of any use(s) contemplated by Buyer under existing zoning of the Right-of-Way or as to any ability to secure any rezoning for Buyer's use.

13. BROKER'S FEES:

The Buyer and the Seller each represent and warrant to the other that neither has introduced into this transaction any person, firm or corporation who is entitled to compensation for services as a broker, agent or finder. Subject to all applicable laws, the Buyer and the Seller each agree to indemnify the other against and hold

the other harmless from any and all commissions, finder's fees, costs, expenses and other charges claimed by real estate brokers or sales persons by, through or under the indemnifying party. Each Party is responsible for any fee and/or cost associated with the Closing.

14. ASSIGNMENT, LIMITS, SURVIVAL:

14.1 (a) This Agreement may not be assigned by Buyer without the prior written consent of Seller, which shall not be unreasonably withheld, provided that if Buyer wishes to cause the Right-of-Way to be conveyed directly from Seller to a third party through an exchange of like-kind real estate on escrow terms qualifying under Section 1031 of the Internal Revenue Code of 1986, as amended, and any Treasury Regulations promulgated thereunder, Seller shall, at Buyer's expense, cooperate in accomplishing Buyer's objective.

(b) Buyer hereby agrees that closing on the disposition of the transfer of the Right-of-Way pursuant to this Agreement may be structured by Seller to qualify as part of an exchange of like-kind Right-of-Way under Section 1031 of the Internal Revenue Code of 1986, as amended, and Treasury Regulations promulgated thereunder (a "like-kind exchange"). Accordingly, Seller shall have the right to assign its rights and interests hereunder to a qualified intermediary or qualified escrow agent, an exchange accommodation titleholder, or such other person as may be necessary to qualify the transaction as a like-kind exchange. Buyer agrees to cooperate with Seller in executing such documents as may be reasonable necessary to implement a like-kind exchange, including, but not limited to, making the proceeds check payable as directed by Seller.

14.2 As limited above, this Agreement shall be binding upon the parties, their successors and permitted assigns, or upon their heirs, legal representatives and permitted assigns, as the case may be.

14.3 Any provision calling for obligations continuing after Closing or termination of this Agreement shall survive delivery of the deed and not be deemed merged into or replaced by any deed, whether or not the deed so states.

15. DEFAULT:

15.1 In the event of a default by Buyer under this Agreement, Seller shall, in writing, give Buyer notice of the default and allow Buyer a reasonable time to cure not to exceed thirty (30) days. If Buyer does not cure default within a reasonable time, Seller may elect to terminate this Agreement by delivery of notice to Buyer.

15.2 In the event of a default by Seller under this Agreement, Buyer shall, in writing, give Seller notice of the default and allow Seller a reasonable time to cure not to exceed thirty (30) days. If Seller does not cure default within a reasonable time, Buyer may elect to terminate this Agreement by delivery of notice to Seller.

15.3 Upon the termination of this Agreement pursuant to this Article 16, Buyer and Seller shall be relieved of all obligations under Agreement, including the duty to close, other than (a) any liability for breach of any of the provisions of Section 12 shall remain as obligations of Buyer and (b) Buyer shall furnish Seller with a copy of all materials and information (including but not limited to any engineering reports, studies, maps, site characterizations and/or zoning related materials) developed by Buyer during the term of this Agreement relating to the potential use or the physical condition of the Premises.

15.4 "Default" shall include not only the failure to make prompt payment of any sums when due under this Agreement, but also the failure to fully and timely perform any other acts required of Buyer or Seller under this Agreement.

16. NOTICES:

16.1 Notice under this Agreement shall be in writing and sent by Registered or Certified Mail, Return Receipt Requested, or by courier, express or overnight delivery, or by confirmed e-mail or facsimile.

16.2 The date such notice shall be deemed to have been given shall be the business day of receipt if

received during business hours, the first business day after the business day of receipt if received after business hours on the preceding business day, the first business day after the date sent by courier, express or overnight ("next day delivery") service, or the third business day after the date of the postmark on the envelope if mailed, whichever occurs first.

16.3 Notices to Seller shall be sent to:
CSX Transportation, Inc.
c/o CSX Real Property, Inc. - J915
301 West Bay Street, Suite 800
Jacksonville, FL 32202-5184
Attn: Amy Vaughn (Transaction Specialist)
Fax: 904-633-4572
E-mail: Amy_Vaughn@csx.com

Notices to Buyer shall be sent to:

Brian Kuhn, County Attorney
160 N. Main Street, Suite 660
Memphis, Tennessee 38103
901-545-4320
brian.kuhn@shelbycountyttn.gov

16.4 Any party hereto may change its address or designate different or other persons or entities to receive copies by notifying the other party in a manner described in this Section.

17. RULES OF CONSTRUCTION:

17.1 In this Agreement, all singular words shall connote the plural number as well as the singular and vice versa, and the masculine shall include the feminine and the neuter.

17.2 All references herein to particular articles, sections, subsections or clauses are references to articles, sections, subsections or clauses of this Agreement.

17.3 The headings contained herein are solely for convenience of reference and shall not constitute a part of this Agreement nor shall they affect its meaning, construction or effect.

17.4 Each party hereto and its counsel have had the opportunity to review and revise (or request revisions of) this Agreement, and therefore any usual rules of construction requiring that ambiguities are to be resolved against a particular party shall not be applicable in the construction and interpretation of this Agreement or any exhibits hereto or amendments hereof.

18. TRAIL USE:

18.1 Buyer agrees that upon acceptance of the Quitclaim Deed conveying the Right-of-Way to Buyer pursuant to the STB's aforementioned order, Buyer or its designee or assignee shall assume full responsibility for management and maintenance, including vegetation and animal control, of the Right-of-Way. To the extent allowed by law, Buyer shall assume full responsibility for and will indemnify Seller against any potential legal liability arising out of transfer or use of the Right-of-Way pursuant to this Agreement. The provisions of this paragraph shall survive the Closing or termination of this Agreement.

18.2 Buyer acknowledges that the Right-of-Way remains subject to the jurisdiction of the STB, including for purposes of reactivating rail service (including either freight or passenger service), imposition of alternative public use conditions, and abandonment. As an inducement to Buyer to enter into this Agreement and in the event action is taken to reactivate rail service on the Right-of-Way, to impose alternative public use conditions, or to abandon the Right-of-Way, Seller agrees to compensate Buyer, or assist Buyer as follows:

A.) In the event the STB, or any other entity of the United States Government compels Seller, its successors or assigns, to reactivate rail service on the Right-of-Way, or in the event Seller, its successors or assigns, voluntarily takes steps to reactivate rail service on the Right-of-Way by seeking to vacate the Notice of Interim Trail Use with respect to the Right-of-Way (the "NITU"), and if the STB approves the vacation of the NITU and reactivation of rail service requiring conveyance of the Right-of-Way by the Buyer to the Seller, then, in such event, Seller, its successors or assigns, shall pay to the Buyer at the time of reactivation a sum equivalent to the Purchase Price as adjusted by the same percentage of increase reflected in the "Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) (1982-84=100) specified for All Items - United States compiled by the Bureau of Labor Statistics of the United States Department of Labor" ("CPI"). The amount to be paid by Seller to the Buyer shall be calculated in accordance with the following:

$$(\text{Current Price Index}^*/\text{Base Price Index}^{**}) \times \text{Purchase Price} = \text{Amount paid to Buyer}$$

* Effective average annual CPI for the most recent year ending prior to reactivation.

** Effective average annual CPI for the year of Closing.

In the event the CPI is converted to a different standard reference base or otherwise revised or changed, the calculation of the adjustment shall be made with the use of such conversion factor, formula or table for converting the CPI as may be published by the Bureau of Labor Statistics or, if said Bureau shall not publish the same, then as reasonably determined by Seller and the Buyer.

In addition to reimbursement for the purchase price, as calculated above, the Seller shall pay to the Buyer the actual cost of capital improvements made to the Trail between date of Closing and the date of notice from Seller to Buyer that a request for reactivation has been filed with the STB or other government agency.

In the event that rail service is reactivated and reimbursement has been paid by Seller as set out herein, Buyer shall re-convey the Right-of-Way together with all improvements located thereon to Seller.

B.) In the event a party other than Seller, its successors or assigns, seeks to reactivate rail service by petitioning the STB to vacate the NITU, and the STB in consideration of its decision to reactivate requires a letter of concurrence to be provided by Seller, its successors or assigns, supporting the vacation of the NITU and reactivation of rail service by such third party, then Seller, its successors or assigns, covenants and agrees that it shall withhold such letter of concurrence until it has received a letter from the Buyer stating the Buyer's support for reactivation of rail service and vacation of the NITU, and that the Buyer has reached a satisfactory agreement with such third party petitioning for reactivation of rail service for transfer and conveyance of the Right-of-Way providing compensation to Buyer for the purchase price and the capital improvements, using the calculations set forth in 18.2A herein.

19. PUBLIC RECORDS: Seller acknowledges that Buyer is a governmental entity that is subject to the Public Records Act as codified in Title 10 Chapter 7 of Tennessee Code Annotated.

20. AMENDMENT This Agreement may be modified or amended only by written instrument signed by both parties.

21. TIME OF ESSENCE: Time shall be considered of the essence both to the Buyer and the Seller for all activities undertaken or required pursuant to this Agreement.

THIS SPACE IS INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the parties have caused this instrument to be executed by their duly authorized representatives on the date and year above written.

APPROVED AS TO FORM
AND LEGALITY

SHELBY COUNTY GOVERNMENT

Contract Administrator/
Assistant County Attorney

A C Wharton, Jr.
Mayor

CSX TRANSPORTATION, INC.

BY: _____

TITLE: _____

STATE OF TENNESSEE
COUNTY OF SHELBY

Before me, the undersigned Notary Public, in and for the State and County aforesaid, personally appeared _____, with whom I am personally acquainted or proved to me on the basis of satisfactory evidence, and who, upon oath, acknowledged himself/herself to be president or other officer authorized to execute the preceding instrument of CSX Transportation, Inc. the within named bargainor, a corporation, and that he as such _____, executed the foregoing instrument for the purpose therein contained, by signing the name of the corporation by himself/herself as _____.

WITNESS my hand and official seal at office this _____ day of _____, 2009.

Notary Public

My Commission Expires: _____